

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI

----- :
ANTERNITIA O'NEAL, :
ADMINISTRATOR :
Plaintiff :
vs. Case No. 1:12-CV00971
:
ORLANDO SMITH, et al. : Judge: SPIEGEL
Defendant(s) :
----- :

DEPOSITION OF: RYAN OLTHAUS

TAKEN: By the Plaintiff

DATE: February 13, 2014

TIME: Commencing at 1:00 p.m.

PLACE: Offices of:
Hardin, Lazarus & Lewis, LLC
915 Cincinnati Club Building
30 Garfield Place
Cincinnati, OH 45202

BEFORE: JENNIFER OLIVIER
Certified Court Reporter
Notary Public - State of Ohio

1 APPEARANCES:

2 On behalf of the Plaintiff:

3 DIANE HUFF, ESQ.
4 of
5 Eric Deters & Partners P.S.C.
6 5247 Madison Pike
Independence, KY 41051

7 On behalf of Defendants:

8 DONALD HARDIN, ESQ.
9 of
10 Hardin, Lazarus & Lewis, LLC
915 Cincinnati Club Building
30 Garfield Place
Cincinnati, OH 45202

11 AND

12 PETER STACKPOLE, ESQ.
13 Assistant City Solicitor
City of Cincinnati
801 Plum Street, Room 214
14 Cincinnati, OH 45202

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16 S T I P U L A T I O N S

17 It is stipulated by and between counsel for the
18 respective parties that the deposition of RYAN OLTHAUS, a
19 witness herein, may be taken at this time by Counsel for the
20 Plaintiff as upon cross-examination pursuant to the Ohio
21 Rules of Civil Procedure; that the deposition may be taken
22 in stenotype by the notary public-court reporter and
23 transcribed by her out of the presence of the witness; that
24 examination and signature of the transcribed deposition by
25 the witness is expressly NOT waived.

FREELANCE COURT REPORTER
Jennifer Olivier (513) 503-0372

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I N D E X

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1 RYAN OLTHAUS

2 being first duly sworn, was examined and testified as if on
3 cross-examination as follows:

4 CROSS-EXAMINATION

5 BY MS. HUFF:

6 Q. Good morning, I think it is still or
7 afternoon.

8 A. Afternoon.

9 Q. My name is Diane Huff. I represent the
10 Plaintiff. Can you please state your full name for the
11 record.

12 A. It's Ryan Olthaus, R-Y-A-N O-L-T-H-A-U-S.

13 Q. And Mr. Olthaus, have you done a deposition
14 before?

15 A. No, ma'am, I have not.

16 Q. Just to go over a few things real quick prior
17 to getting started. Please make sure you say everything
18 clearly, because Ms. Olivier is going to be taking every
19 word on the record. Answer with yes or nos and not uh-huh
20 or huh-uh so that that comes across clearly. Try not to
21 speak when I'm speaking and I'll try not to speak when
22 you're speaking. And if you don't understand a question,
23 feel free to ask me to repeat it or rephrase it and I'll do
24 that for you. Otherwise, I'll assume you understood what
25 I'm asking and your answering the question that is being

1 asked.

2 A. Yes, ma'am.

3 Q. Okay. Now, can you please tell me how you
4 got involved with the Cincinnati Police Department.

5 A. How I got involved with Cincinnati --

6 Q. When did you start working there?

7 A. 2008.

8 Q. What did you come on as?

9 A. PO.

10 Q. Were you patrol?

11 A. Yes.

12 Q. Where did you work at prior to Cincinnati
13 Police Department?

14 A. I worked at Portman Equipment Company.

15 Q. Okay. So this was your first police officer
16 position?

17 A. Right. My second academy.

18 Q. Okay. And when did you become involved with
19 plain clothes?

20 A. About three and a half years ago.

21 Q. Okay.

22 A. So 2011.

23 Q. Okay. And what division did you join?

24 A. District 4's VCS.

25 Q. Okay. Did you have a specific role in that

1 district?

2 A. In the VCS Unit where all we do predominately
3 showing up to robberies, to drug enforcement, to drug
4 complaints, to helping officers on stops. I mean, there's
5 -- the role is pretty broad I should say.

6 Q. And it's all plain clothes?

7 A. Yes.

8 Q. Okay.

9 A. I shouldn't say it's all plain clothes. The
10 majority of the time it's plain clothes.

11 Q. And are you still involved with District 4
12 VCS?

13 A. No, I'm not.

14 Q. Okay. What are you doing now?

15 A. I'm in District 3 patrol.

16 Q. And you said patrol?

17 A. Yes, uniform patrol.

18 Q. Okay. When did you switch to District 3?

19 A. Seven weeks ago.

20 Q. Congratulations.

21 A. Thank you.

22 Q. I think. Is that a congratulatory?

23 A. Yeah. I'm from the west side of town. I
24 like it. It's nice.

25 Q. Okay. Do you recall the evening that the

1 event that brought us here today occurred?

2 A. Yes, I do.

3 Q. What -- what were you doing that evening in
4 terms of work?

5 A. What were we working on that night?

6 Q. Yes.

7 A. We were basically buying drugs from Bobbie
8 Matthews.

9 Q. Okay. And so you had set up the drug buy?

10 A. Correct.

11 Q. And what was your role in the drug buy?

12 A. My role until the drug buy, I was with
13 Officer Asbury. Half of our unit was -- actually had eyes
14 on the buy and the CI. Me, Asbury and my sergeant, --

15 Q. Who is your sergeant?

16 A. Brian Beechler.

17 Q. Beechler?

18 A. Yes, B-E-E-C-H-L-E-R.

19 Q. Okay. Okay. The three of you were doing
20 what? I'm sorry.

21 A. We were at the thrift store on Este --

22 Q. Okay.

23 A. -- listening to communication. The vehicle
24 that me and Asbury were in, Officer Asbury and I were in had
25 been used quite a bit. So the cover on the car had been

1 compromised. So we sat back on Este.

2 Q. Is it normal to sit back?

3 A. Yeah. You normally have two teams.

4 Q. Could you observe what was happening with the
5 drug buy?

6 A. Could we?

7 Q. Uh-huh.

8 A. No. We were in direct communication on C
9 with the other unit who had actually had eyes on it.

10 Q. And was Sergeant Beechler in a separate
11 vehicle?

12 A. Yes, he was.

13 Q. Right next to you guys?

14 A. Yes.

15 Q. Okay. Were you guys on the same wave of
16 communication or were you communicating between the
17 vehicles?

18 A. What are you -- I don't understand.

19 Q. Were each of you receiving communication?

20 A. Yeah, each of us get -- each of us have our
21 own radio. Everybody gets communication.

22 Q. Okay. And was Sergeant Beechler in charge of
23 the drug buy that night?

24 A. Yeah. He was the supervisor in charge.

25 Q. Okay. And how did the drug buy go?

1 A. Great.

2 Q. Everything happened how you wanted it to?

3 A. Uh-huh.

4 MR. HARDIN: You'll have to give a yes or no.

5 A. Yes. I'm sorry.

6 Q. (By Ms. Huff) And what happened after the --

7 actually let me ask you this.

8 A. Uh-huh.

9 Q. Who -- who from the suspect vehicle was
10 involved in the drug buy, do you know?

11 A. Robert Matthews, Bobbie Matthews.

12 Q. What role did he have?

13 A. He actually sold the heroin to the CI.

14 Q. Okay. And did the CI relay any other
15 information to you, other than Matthews had sold him heroin?

16 A. I want to say that there was some
17 communication through the CI from the officers that were
18 actually at the -- at the buy to us, that there was another
19 suspect in the car that had a pretty substantial amount of
20 dope or heroin.

21 Q. Okay. Did they tell you which suspect that
22 was?

23 A. I cannot remember.

24 Q. Okay. Did you know how many suspects there
25 were at the time?

1 A. I believe that we knew there were three
2 because of the CI.

3 Q. Okay. Did you know where Bobbie Matthews was
4 sitting in the vehicle?

5 A. I did not.

6 Q. Okay.

7 A. I did not.

8 Q. Did you become aware of that at a later time?

9 A. Yes. After all the -- after the whole
10 situation happened, yes.

11 Q. Okay. So the whole time you did not know?

12 A. I didn't have a clue the whole time until
13 shots were fired and everybody was out of the car, what was
14 going on.

15 Q. Did you know Mr. Matthews?

16 A. Yes, I did.

17 Q. How so?

18 A. Because we had purchased drugs from him
19 several other times. He's ran from us or me personally. So
20 that's how we -- we were doing a -- it was basically the buy
21 that day was an ongoing drug investigation to where we had
22 purchased drugs from him prior. And that was the day that
23 we were going to lock him up.

24 Q. Okay. So he was your target?

25 A. Yes.

1 Q. Did you know any of the other suspects?

2 A. No, I did not.

3 Q. Even after you learned who they are, you
4 don't recall if you had any?

5 A. No one-on-one, no. I have not.

6 Q. Okay. So what did you do at the stop after
7 it was finished, after the drug buy?

8 A. After the drug buy?

9 Q. Yes.

10 A. We started following a black -- I can't
11 recall if it was a Nissan or Honda. I think it was a Honda,
12 a black Honda, putting out traffic on our radio for us to
13 get a uniform car.

14 Q. Okay.

15 A. So we could get him stopped.

16 Q. Are why did you decide to follow the black
17 Honda, which I'll probably refer to as the suspect vehicle?

18 A. Okay, the suspect vehicle, because our CI had
19 just purchased heroin from someone in that vehicle. So our
20 whole thing that we were trying to do is get a uniformed car
21 to stop it so we could arrest Bobbie Matthews because he was
22 in it.

23 Q. Okay. So that was the next step was to --

24 A. To get a uniformed car to get it stopped so
25 we could arrest Bobbie Matthews.

1 Q. And to maintain observation of the suspect
2 vehicle?

3 A. That is why we were following it, yes.

4 Q. Right.

5 A. So we could put it out on the radio where it
6 was going because procedurally in a plain clothes vehicle,
7 Cincinnati Police are not allowed to do a traffic stops. So
8 we had a calling for a uniform car to do a traffic stop.

9 Q. Is there ever a time where you secure a
10 uniform car to make a stop prior to calling them out? And
11 what I mean by that, before you had done the drug buy as you
12 were setting it up --

13 A. Uh-huh.

14 Q. -- is there ever a time? Or could you --
15 well, let me ask you first. Is there ever a time that you
16 would have a uniformed police officer on standby -- an
17 assist vehicle that would assist with the stop.

18 A. In our -- with our unit, yes. Sometimes no,
19 like if we're doing a big search warrant. But with the
20 staffing that we have in the districts right now, it wasn't
21 feasible. Sometimes, it depends if have you 15 people
22 working on a relief you can go ahead and do that, but then
23 sometimes you only have 10 people on a relief and you're not
24 going to be able to secure that person for the time you have
25 them.

1 Q. Okay. So you knew going in that you would
2 have to radio to get a uniformed officer to make a stop?

3 A. I would say possibly, yeah, but the whole
4 thing is why we didn't secure one prior to that, you don't
5 know with these drug buys how they are going to go. You
6 don't know if he's going to sell or not sell. You just never
7 know.

8 Q. Okay.

9 A. And the thing is as well is, I can't say if
10 Bobbie -- if Bobbie said he did sell the dope and just
11 started to walk. We're allowed to get out on him and at
12 that point, but I can't -- a moving vehicle, I cannot stop
13 with a plain clothes car.

14 Q. So there was a drug sale that happened. So
15 at that point did somebody tell you to radio for a uniform
16 police officer?

17 A. No, it was -- it was -- I don't know who made
18 the call. But after we heard that there was a substantial
19 amount of heroin in the vehicle, we just decided to make the
20 stop. So we did radio for a car and give them an update
21 where we were going.

22 Q. But did you make the call?

23 A. Did I make the call to get the uniform car?

24 Q. Yeah.

25 A. No.

1 Q. But somebody else did?

2 A. Yeah.

3 Q. And do you know who responded to the call out
4 for a radio -- or for a uniform?

5 A. A uniform, first was a -- who was supposed to
6 be coming to our location on Mitchell was a female. I do
7 not recall who it was. But further on in us tailing the
8 vehicle, the suspect vehicle as you call it, towards the end
9 of it, Officer Smith said that he was close by and that he
10 could make the stop, because the route that we went up
11 through Avondale, the first car, uniform car, came the other
12 way. So -- but anyway, he did --

13 Q. Officer Smith?

14 A. Officer Smith did respond to it.

15 Q. Okay. And who was driving the vehicle that
16 you were in?

17 A. Officer Asbury.

18 Q. And you were in the passenger seat?

19 A. Correct.

20 Q. Did you guys have any conversations while
21 tailing about what was going to happen next, make a plan,
22 anything like that?

23 A. Huh-uh, there was --

24 Q. And can you say yes or no.

25 A. There was no talk. We were just basically

1 trying to make sure we had the streets correct and making
2 sure where he was going telling them to watch. I mean
3 nothing.

4 Q. So the whole time you're on the radio
5 radioing where your location was at?

6 A. Correct, correct.

7 Q. And you ended up on Burton Avenue?

8 A. Correct.

9 Q. And what happened when you got onto Burton?

10 A. When we were on Burton, Officer Smith and his
11 patrol car basically went in front of us. The suspect
12 vehicle acted like it was going to come to a stop. It
13 didn't. He had -- Officer Smith actually --

14 Q. I just want to stop you real quick. I know
15 Officer Smith is here today, but can you just use his name,
16 so that on the record we know who you're talking about?

17 A. Yeah.

18 Q. Okay.

19 A. Officer Smith activated his lights and siren,
20 tried to pull over the vehicle. The vehicle wouldn't stop.

21 Q. Okay. When you were on Burton and Officer
22 Smith pulled up, you said he pulled up in front of you?

23 A. Yeah.

24 Q. He went around you?

25 A. When we were on Greenwood.

1 Q. Greenwood, I'm sorry.

2 A. Greenwood and then Reading Road goes north
3 south. Officer Smith was on Reading Road when we were on
4 Greenwood. The suspect vehicle took a left, southbound onto
5 Reading Road -- or excuse me, northbound onto Reading Road,
6 and then eastbound onto Burton where Officer Smith seen the
7 vehicle, seen us behind it, knew the license plate from us
8 putting it out on the radio, came northbound on Reading Road
9 at that light and then went eastbound on Burton and cut in
10 front of us so he could make the stop.

11 Q. So Officer Smith passed you going northbound
12 on Reading and you pulled out left to northbound on Reading
13 following Officer Smith and then going east onto Burton?

14 A. Correct.

15 Q. Okay. And when you got on to Burton, did you
16 stop or did all the cars keep moving?

17 A. We all kept moving.

18 Q. Okay. And you mentioned that it looked like
19 the suspect vehicle was going to stop?

20 A. There was -- excuse me there was maintenance
21 of some sort going on there and it was hard for us to see.

22 Q. Maintenance, meaning construction? Street
23 construction?

24 A. Yeah, like construction or barrels. I can't
25 remember. There was some sort of obstruction like that

1 there. So when Officer Smith proceeds to go down Burton the
2 car slows down, but then takes off again.

3 Q. Okay.

4 A. So it never came to a complete stop. It just
5 slowed down and acted like it was going to pull over and
6 kept going.

7 Q. And did you and Officer Asbury stay behind
8 Officer Smith this whole time?

9 A. Uh-huh. Yes, ma'am.

10 Q. And did the vehicle end up coming to a stop,
11 the suspect vehicle?

12 A. I -- it did after the whole situation, but
13 not during the initial stop. I wasn't in the vehicle for
14 the whole pursuit.

15 Q. Okay. So tell me what happened when you guys
16 pull onto Burton.

17 A. Okay. We're going down Burton. Officer
18 Smith activates his lights and siren. The car does not stop
19 We're going down Burton. Burton crests at the top of the
20 hill. We start going down to the bottom of the hill where
21 it dead ends eastbound.

22 Q. Are you familiar with this street?

23 A. Yes.

24 Q. So you knew it was a dead end?

25 A. Yes.

1 Q. Okay.

2 A. As we're going down the street, the right
3 front passenger of suspect vehicle bailed out of the car
4 while it's still moving.

5 Q. Okay.

6 A. I bail out of our CC car.

7 Q. While it's still moving?

8 A. Yeah. I mean, we're going -- this is at the
9 crest. It's going down toward the dead end, so people were
10 -- Asbury was slowing the car down. I still jump out of the
11 car while it's still moving.

12 Q. How fast were you going?

13 A. I don't know, two, three miles an hour. I
14 mean, it was not like we were going 15 or 10. It was slow.

15 Q. Okay. So you saw a passenger get out of the
16 front passenger door --

17 A. Uh-huh.

18 Q. -- of the suspect vehicle. Were you able to
19 see if he had anything in his hands?

20 A. As he was running -- as I was running
21 eastbound on Burton, he was running westbound on Burton and
22 we were coming together. Again it was twilight. I couldn't
23 see. He was going like this with his hands (indicating). I
24 was yelling at him to show me his hands and then he went
25 down. He headed southbound down the stairwell.

1 Q. Okay. I want to make sure I have it right.
2 Your vehicle is behind Officer Smith, who is behind the
3 suspect vehicle?

4 A. Correct.

5 Q. And you see a person jump out of the
6 passenger side door of the suspect vehicle?

7 A. Yes, the front seat passenger.

8 Q. Yeah, the front seat passenger door, they
9 jump out of and they start running westbound back toward
10 your vehicle?

11 A. Correct.

12 Q. And you're jumping out of your vehicle at the
13 same time when you observe this?

14 A. Well, I'm behind him, but I'm -- as soon as
15 they jump out and start running, I get out --

16 Q. -- you jump --

17 A. -- of my vehicle --

18 Q. -- out and --

19 A. -- and I started running at them.

20 Q. So you two are running toward each other?

21 A. Correct.

22 Q. And is that along the vehicles then?

23 A. This ma'am, was on the sidewalk.

24 Q. Okay. What I mean is, are all the vehicles
25 facing eastbound?

1 A. Yes.

2 Q. Okay. So your running along the sidewalk
3 next to the vehicles on the eastbound side of vehicles?

4 A. Correct.

5 Q. Okay.

6 A. I'm actually on the north side of vehicles.
7 They are heading east. Excuse me. I'm on the south side of
8 the vehicles.

9 Q. Okay. Correct, yes.

10 A. Yeah.

11 Q. Okay. So you're on the south side of
12 vehicles?

13 A. Correct.

14 Q. You're running eastbound?

15 A. Correct.

16 Q. The suspect is running west?

17 A. Correct.

18 Q. And you see him doing something with his
19 hands in the front of him?

20 A. Yeah. He's going like this (indicating),
21 like he's stuffing or pulling.

22 Q. Near his belt area?

23 A. Yeah, near his mid section, near his
24 waistband.

25 Q. At that time had you drawn a weapon?

1 A. Yes, I did.

2 Q. And why did you draw your weapon?

3 A. Why did I draw my weapon?

4 Q. Yes.

5 A. I couldn't see. I told him several times to
6 show me his hands. He was given -- he was -- I couldn't
7 see. I was -- in this situation, usually Bobbie Matthews is
8 -- has been known to carry guns. So I was thinking that
9 there was a gun in the vehicle. He would not show me his
10 hands. I was getting to the point where I was starting to
11 fear like something was going for happen and I needed to
12 protect myself.

13 Q. Let me back track to something you just
14 brought up.

15 A. Uh-huh.

16 Q. Bobbie Matthews was known to carry guns.

17 A. Uh-huh.

18 Q. On past run-ins that you had with him, did he
19 have guns on him?

20 A. No, but in intelligence gathering from other
21 -- other groups within the department, it was -- it was
22 known that he was -- he's been known to carry guns.

23 Q. Had he ever to your knowledge fired a gun?

24 A. I don't know.

25 Q. Okay. Now, did you use verbal commands

1 toward the passenger that had jumped out and is now running
2 toward you?

3 A. Yes.

4 Q. You used verbal commands prior to pulling out
5 your gun or as you're pulling out your gun? Can you kind of
6 explain the order that happened in? I'm sure it happened
7 quick, but --

8 A. I was -- I'll tell you, it was pretty much
9 the same time. I don't remember. I remember him jumping
10 out, me yelling at him to stop. And I mean, I can't tell
11 you if it was -- it was pretty much the same time.

12 Q. Did you ever actually see a gun?

13 A. Did I see his gun? No.

14 Q. So you didn't know whether or not he actually
15 had a gun?

16 A. No.

17 Q. Okay. And did you confront him?

18 A. He actually made it -- like I said, he was
19 going southbound down the stairwell. That's when I heard
20 the shots and that's when I went towards where I heard the
21 shots?

22 A. Okay. From the time that you jumped out of
23 the vehicle that Officer Asbury was driving, were you aware
24 of what Officer Asbury was doing?

25 A. No, I was not.

1 Q. Okay. Were you aware of what Officer Smith
2 was doing?

3 A. No, I was not.

4 Q. Okay. When you jumped out of the vehicle,
5 was Officer Smith still in his vehicle?

6 A. I think he was getting out of his vehicle.

7 Q. So he had stopped and put it in park?

8 A. I can't -- I was -- as I was running, I can't
9 see these guys.

10 Q. Okay. I'm asking before you started running,
11 I guess. I'll clarify that. You're behind Officer Smith
12 and you see this guy jump out. You said the vehicle was
13 still moving at a slow pace?

14 A. Correct.

15 Q. Two or three miles an hour. Do you know if
16 Officer Smith's vehicle was still moving?

17 A. When I was getting out of my vehicle?

18 Q. Yeah, at that time.

19 A. At that time everybody was still moving.

20 Q. Okay. So you didn't see him stop and get out
21 of his vehicle?

22 A. No.

23 Q. Okay. You were running, chasing after the
24 suspect. Okay, say yes or no.

25 A. Yes, ma'am. Sorry.

1 Q. That's okay. And you heard shots fired?

2 A. Yes, ma'am.

3 Q. Was your back toward the direction of where
4 the shots were being fired?

5 A. Yes.

6 Q. Do you know or can you remember how many
7 shots were fired?

8 A. No, ma'am.

9 Q. Do you remember the frequency of the shots,
10 meaning were they bam, bam, bam, one after another?

11 A. I can't remember. I can't remember. I
12 believe that there were -- I mean, no, I can't say that I do
13 remember.

14 Q. Okay. Let me ask you this. When the suspect
15 was running westbound toward you --

16 A. Uh-huh.

17 Q. And you're running eastbound towards the
18 suspect, at some point he drops off and runs south. Do you
19 know if you were still near Officer Smith's vehicle or the
20 suspect vehicle? Was it still to your left?

21 A. It was still --

22 Q. On the northbound side?

23 A. Yeah, it was still to the left of me and I
24 would say I was in close proximity to it because the sirens
25 were real loud. I mean, yeah.

1 Q. So you're still in close proximity?

2 A. Yes.

3 Q. Did you follow south at all or had the shots
4 been fired before you started following south.

5 A. The suspect was already going south. He was
6 going down a stairwell. I heard shots and directed
7 attention toward the shots because that guy wasn't a danger
8 anymore. I wanted to make sure that everything was all
9 right with -- with Officer Smith.

10 Q. Okay. So you never made it down the steps?

11 A. No, I did not.

12 Q. And you turned around and what did you
13 observe?

14 A. At that point I observed the car, suspect
15 vehicle, excuse me, coming to a slow stop and Officer Smith
16 up on target.

17 Q. Okay.

18 A. On his -- on his police radio calling for
19 fire and other cars.

20 Q. Where was the suspect vehicle at that time in
21 relation to the vehicle that you had come out of, Officer
22 Asbury's vehicle and Officer Smith's cruiser?

23 A. Ask it the question again, please.

24 Q. Okay. Let me ask you this. Were all the
25 cars still facing eastbound?

1 A. They were all still facing eastbound.

2 Q. Where was the suspect vehicle in relation to
3 Officer Smith and Officer Asbury's vehicles when you turned
4 around and saw it come to a stop?

5 A. Officer Asbury's vehicle was here,
6 (indicating) was the one that was the furthest.

7 Q. West?

8 A. West and then it was the suspect vehicle and
9 then Officer Smith's patrol car.

10 Q. Okay. So prior to that though, the suspect
11 vehicle was in front of Officer Smith's car?

12 A. Correct.

13 Q. So did you observe at all the suspect vehicle
14 moving backwards?

15 A. No, I did not.

16 Q. Did you ever -- did you observe at all if
17 ever turn around?

18 A. No, I did not.

19 Q. So you don't know how it got back?

20 A. Correct. I don't know.

21 Q. Did you ever observe the suspect vehicle hit
22 Asbury's vehicle?

23 A. No, ma'am.

24 Q. Did you hear it?

25 A. I believe I did hear a crash or an impact of

1 something, but I didn't see it. I didn't know until later
2 on that the actual -- there was an auto accident.

3 Q. Okay. Do you know at what point you heard a
4 crash was it while you are chasing?

5 A. I think while I was running, yes.

6 Q. Okay. So was it before the shots were fired
7 then?

8 A. Yes.

9 Q. Once you turned around were shots still being
10 fired?

11 A. No, ma'am.

12 Q. And you said you observed Officer Smith in
13 aim?

14 A. Yes, on target.

15 Q. On target, thank you. And who was his
16 target?

17 A. The front seat, excuse me. The front -- the
18 driver of the suspect vehicle, sorry.

19 Q. Okay. And did you observe Officer Asbury's
20 location when you turned around?

21 A. Yeah. When I scanned I believe that he was
22 to the left of me putting Bobbie Matthews in custody or
23 coming from that general direction, the west -- up the
24 street by his -- by our vehicle.

25 Q. So he was still near your vehicle?

1 A. Yeah.

2 Q. Was he on the south side of the vehicle or
3 the north side? The south side being the passenger side and
4 the north side being the passenger side.

5 A. I couldn't even tell you. I don't know. I
6 don't remember.

7 Q. From where you were standing, if he was on
8 the driver's side, would you have been able to see him
9 because you were on the south side?

10 A. Yeah. I would be able to see over the
11 vehicle. I would be able to see him. I think he was on
12 the north side of the street, but I'm not positive.

13 Q. Okay. So when you turned around, he was
14 already over by Bobbie Matthews?

15 A. Yes.

16 Q. Okay.

17 A. And that was actually behind me, the way that
18 the -- the way that the steps are, the steps come up here on
19 the south side. And this is where the west -- excuse me.
20 The eastern point is where the shooting happened. Asbury
21 was actually behind me to the east side to the north.

22 Q. The east side?

23 A. The north eastern side I would say.

24 Q. The direction the cars were facing, the east
25 way?

1 A. No, okay. I'm getting this completely
2 confused and I apologize. He was on the northwestern side
3 which was -- which would have been behind me to my left on
4 the north side up here where Bobbie was at.

5 Q. Okay.

6 A. Sorry.

7 Q. Let me do this. I'm going to mark this
8 Exhibit 1. Do you recognize this?

9 A. Yes.

10 Q. And do you know who produced this document?

11 A. No.

12 Q. Okay. Does that look like a good rendition
13 of where the cars were parked?

14 A. Correct.

15 Q. And can you mark on there the north, south,
16 east and west?

17 A. Okay. This would be north. This would be
18 east. That would be south, and that would be west
19 (indicating).

20 Q. Where are these steps?

21 A. The these steps are about here (indicating).

22 Q. Okay. Can you write steps there?

23 A. Uh-huh.

24 Q. Okay. And where is officer Asbury?

25 A. Asbury is over here (indicating).

1 Q. Okay. And at that time was the suspect
2 vehicle in the location of one of the cars that you see on
3 that drawing?

4 A. Excuse me?

5 Q. Was the suspect vehicle in the position as
6 you see it on that drawing?

7 A. I believe so, yes. Facing east, yes.

8 Q. Okay. And is the suspect vehicle marked
9 correctly on that?

10 A. Yes, right here (indicating).

11 Q. Okay. And where was Officer Smith?

12 A. Officer Smith was over here (indicating).

13 Q. Okay. And he was aiming at the driver?

14 A. Correct.

15 Q. Okay. And what -- what did you do after you
16 saw them? After you turned around and saw Officer Smith,
17 and Officer Asbury, what was your next step?

18 A. After I saw that Officer Smith was still on
19 target, I proceeded. There was a car right here. So I
20 proceeded to go over here and start to make sure everything
21 was okay with him and clear the car.

22 Q. Okay. So there was a car parked on the south
23 curb near the steps?

24 A. Yeah, somewhere around here (indicating).

25 Q. And was that car blocking your view at all of

1 what was going on?

2 A. No, no.

3 Q. So you could see?

4 A. Yes.

5 Q. And so you approached the suspect vehicle?

6 A. Correct.

7 Q. What -- was Officer Smith moving toward the
8 suspect vehicle also?

9 A. He was standing here on target, radioing for
10 cars and fire.

11 Q. Okay. Where did you go when you approached
12 the suspect vehicle?

13 A. The other side.

14 Q. The other side being?

15 A. The passenger side.

16 Q. Okay. And was the passenger door open?

17 A. The passenger door open, yes, it was.

18 Q. It was open. And did you -- did you observe
19 anything in the car around the car?

20 A. There was -- there was -- you want me to tell
21 you what I observed in the car.

22 Q. Yes, or around the car if you observed it?

23 A. The driver had been shot. He was laying over
24 the passenger seat.

25 Q. Which way was he leaning, toward his right or

1 toward his left?

2 A. Towards his right.

3 Q. Okay.

4 A. And there was a --

5 Q. You're making a movement with your arm. Did
6 he have his arm out?

7 A. Yeah, he had his arm out.

8 Q. Which arm?

9 A. His right. There was -- and I -- I mean,
10 right within finger length there was a black semi automatic
11 handgun.

12 Q. Okay. Do you know what type of a handgun?

13 A. No, I do not.

14 Q. Did you grab the gun? Did you do anything?

15 A. I did not.

16 Q. Okay. But the gun was not in his hand?

17 A. No, but it was in -- I mean, close proximity.

18 Q. Okay. How was the gun facing?

19 A. It was facing towards the seat or excuse me,
20 the door -- the passenger door, which would be to the south
21 side or the right side.

22 Q. Meaning that the handle was toward his hand
23 and the muzzle was --

24 A. Correct. And you the muzzle was out toward
25 the door.

1 Q. And did you still have your gun drawn at this
2 time?

3 A. Yes, I did.

4 Q. Did you have it up at aim?

5 A. Yes, I did.

6 Q. Who were you aiming it at?

7 A. I was aiming it at the driver of the vehicle.

8 Q. Okay. And did you observe Officer Asbury
9 doing anything else during this time?

10 A. While this was happening and I had my firearm
11 pointed at the driver, Officer Asbury came and met me at the
12 passenger front door. I still had him at gun point. The
13 driver was still alive at that point. So Officer Asbury
14 grabbed the firearm while I still had him at gun point and
15 put it on the roof of the car.

16 Q. And Officer Smith was still on the driver's
17 side of the vehicle with his gun aimed at the driver as
18 well?

19 A. Correct.

20 Q. And was the driver inside the vehicle?

21 A. Yes, he was.

22 Q. Okay. Was the driver's side door open or
23 closed?

24 A. It was open.

25 Q. Do you know who opened the door?

1 A. No, I do not.

2 Q. Okay. Did you observe at all Mr. Matthews
3 getting out of the vehicle?

4 A. No. No, I did not.

5 Q. Did you ever observe the driver getting out
6 of the vehicle?

7 A. No, I did not.

8 Q. Okay. What did you do after Officer Asbury
9 took the gun and placed it on the top of vehicle?

10 A. We cleared the rest of the car.

11 Q. What does that mean?

12 A. Make sure there was nothing else that could
13 do harm to us, cleared it.

14 Q. Was there anything else?

15 A. That I could see, no. My whole point was I
16 wanted to make sure that there was no other firearms or
17 suspects in there that could do any harm to any officers. I
18 was thinking about officer safety. So, we waited for fire
19 to come.

20 Q. Okay. So while you were clearing out the
21 vehicle for other weapons, did you observe any shell casings
22 in the vehicle?

23 A. I did not.

24 Q. Okay.

25 A. And what I mean by search, this is basically

1 a glance to make sure it's -- I'm just glancing in making
2 sure everything is fine.

3 Q. Only a visual search?

4 A. Yes, correct.

5 Q. And was -- what did you do after you did that
6 clear? Did you stay on the passenger side as you were
7 calling for fire?

8 A. I stayed on the passenger side. Other
9 officers showed up and at that point Officer Smith
10 complained of chest pains and that's when I stripped him
11 down and made sure he was not shot or injured.

12 Q. Did you observe any injuries on him?

13 A. No.

14 Q. Had you heard Officer Smith say anything else
15 during the incident?

16 A. No.

17 Q. Okay. Had Officer Asbury said anything
18 during that time?

19 A. No.

20 Q. Did you ever hear Officer Smith make verbal
21 commands to the passengers in the vehicle?

22 A. I did not.

23 Q. Okay. Did you --

24 A. Only because --

25 Q. Go ahead.

1 A. Well, the sirens are so loud when you're up
2 close, you couldn't hear anything.

3 Q. Okay. Did the sirens remain on?

4 A. They remained on. And then I did turn them
5 off when everything was okay and secure because for radio
6 traffic purposes.

7 Q. Okay. Did you turn them off then after you
8 did the visual clear of the vehicle?

9 A. Yes, yes.

10 Q. At that point?

11 A. Yes.

12 Q. Okay. Did your vehicle that you were in with
13 Officer Asbury have any type of surveillance, audio or
14 video?

15 A. No.

16 Q. Did you have any on you, audio or video?

17 A. No.

18 Q. Do you know if Officer Smith's video or audio
19 was on?

20 A. I don't know if it was on or not. It should
21 be. The way that our cameras work in our cars is as soon as
22 you turn the lights and sirens on, the camera automatically
23 boots -- boots up.

24 Q. So when you turn the lights off you also
25 turned off the camera?

1 A. No, because what it does is when you turn the
2 lights off, you have to manually stop the camera.

3 Q. Okay. So did anyone stop the camera?

4 A. That I seen, no.

5 Q. Okay. Who set up the controlled drug buy
6 with Bobbie Matthews?

7 A. Someone in my unit. I don't know
8 specifically who did.

9 Q. Okay. And you said that is something that
10 you were planning for some time?

11 A. No, I wouldn't say some time. I mean, we
12 were during -- we were in the middle of the investigation
13 and we had a CI that could buy from him. So we brought it
14 up pretty much that morning.

15 Q. Okay. But you had mentioned there were a few
16 times prior that he purchased, but you didn't arrest at
17 those times?

18 A. Correct.

19 Q. Why not?

20 A. Just to build a stronger case.

21 Q. Okay. Is that standard?

22 A. In our unit, yes.

23 Q. Okay. I just want to ask again, I think I
24 asked this before. You never observed Officer Smith getting
25 out of his vehicle, correct?

1 A. Like I said, in glancing I might have, but I
2 can't -- I can't recall.

3 Q. Okay. And in terms of the lights and the
4 camera, how they sync, can you turn the camera off while the
5 lights are on?

6 A. Yes, I think you can, but I think -- or
7 excuse me. You can't, no. When the lights are on -- when
8 the lights and sirens are on, you can't turn them off.

9 Q. Okay.

10 A. Because what it does is you manually stop it
11 and then it just kicks right back on.

12 Q. Because the lights and sirens are still on?

13 A. Yeah.

14 Q. So there would be just a short lag?

15 A. Yeah.

16 Q. So when the lights and sirens are off, you
17 can manually turn it off?

18 A. Correct.

19 Q. And that's the only way to turn it off?

20 A. Correct.

21 Q. Have you talked to Officer Smith about this
22 incident since it happened?

23 A. Not about any of the -- I should say it's
24 about the investigation, basically what we're doing right
25 now. I asked him when his time is and things like that,

1 nothing about the case.

2 Q. How about Officer Asbury?

3 A. Same thing.

4 Q. Did Sergeant Beechler follow you guys to the
5 scene?

6 A. The scene to --

7 Q. On Burton Avenue?

8 A. No, he did not.

9 Q. Okay.

10 A. He was actually meeting with the confidential
11 informant.

12 Q. Okay. Does the supervisor have to be there
13 to make an arrest?

14 A. No.

15 Q. Okay. When you heard the shots being fired,
16 could you tell if they were all from the same spot or
17 whether they were shots back and forth?

18 A. No, just sounded like a succession of shots.

19 Q. Okay. So they happened successively, like
20 back to back?

21 A. Well, yeah. I don't remember if it was like
22 -- yes, it was all together. It was all pretty much one big
23 bang.

24 Q. Do you want to stop clicking your pen?

25 A. Yeah, sorry.

1 Q. When you turned around and saw the suspect
2 vehicle next to Officer Asbury's vehicle, and Officer Smith
3 was aiming at the driver, correct?

4 A. No. What? Say that again.

5 Q. When you turned around, where was the suspect
6 vehicle when you first turned around after chasing the
7 passenger that had jumped out?

8 A. Right when I jumped out of vehicle, it was
9 all -- it was still the suspect vehicle, Officer Smith's
10 vehicle and then our vehicle.

11 Q. Okay. And then you heard shots fired and you
12 turned around?

13 A. Correct.

14 Q. And where was the suspect vehicle?

15 A. Behind. It was to the left - or excuse me.
16 It was behind Officer Smith's vehicle.

17 Q. Okay. And next to Officer Asbury's?

18 A. It wasn't next to officer Asbury's. I think
19 Officer Asbury's was behind it a little bit.

20 Q. So it was right in front of Officer Asbury's?

21 A. Right in front of Officer Asbury.

22 Q. Did you observe Officer Smith at that time?

23 A. When I -- when I first -- when I turned
24 around, yeah. He was still on target at the driver.

25 Q. And so at this point, based off this map,

1 would he have been pointing southwest?

2 A. It would be south if he's pointing at the
3 driver. Are we still talking about Officer Smith?

4 Q. Yes, not in the position that they are on
5 that drawing, but at the time you said you turned around and
6 the suspect vehicle was right in front of Officer Asbury's
7 vehicle?

8 A. I'm still --

9 MR. HARDIN: I'm just going to object. I
10 don't understand the question.

11 A. Yeah, yeah. I don't understand it either.

12 Q. (By Ms. Huff) Okay. Let's start over. When
13 you turned around, when you first heard the shots, that's
14 what made you turn around?

15 A. Correct. Right here (indicating).

16 Q. Where was the suspect vehicle?

17 A. It was coming to a stop here (indicating).

18 Q. So it was there?

19 A. Yes.

20 Q. It was not over here by the Officer Asbury's
21 vehicle?

22 A. No, it was not.

23 Q. Okay. So you observed Officer Smith aiming
24 to the east towards the driver of the suspect vehicle?

25 A. Correct.

1 Q. And so did you ever observe the suspect
2 vehicle as it -- at the time it crashed Officer Asbury's
3 car, did you observe that crash?

4 A. No, I did not.

5 Q. Did you ever see the car right after the
6 crash or as it was right in front of Officer Asbury's
7 vehicle?

8 A. No, I did not.

9 Q. Okay. Did you ever see the suspect vehicle
10 moving from Officer Asbury's vehicle to the location to the
11 north side?

12 A. I seen no part of the crash whatsoever.

13 Q. Okay. So when you turned around, the car was
14 already in an almost stopped position at the northbound curb
15 facing east?

16 A. Yes, going -- continuing forward.

17 Q. And did it hit this parked car in front of
18 it?

19 A. I believe it did. That's how it came to
20 rest.

21 Q. Okay. Did you observe any casings near
22 Officer Smith?

23 A. No, I did not. I'm not saying there weren't
24 any there, but I just didn't observe them.

25 Q. And when you checked him for injuries, where

1 did you do that at?

2 A. Behind the car, right where he was standing.

3 Q. Okay. So had he --

4 A. Actually it was probably further back here
5 because the paramedics and everything were trying to do
6 their thing.

7 Q. So had he moved at all from the time that you
8 saw him standing at the driver to the time that you were
9 checking him, other than backwards?

10 A. No.

11 Q. So he never moved up to the car?

12 A. That I seen? He was up towards the vehicle
13 on aim giving -- I mean, doing things, but I mean, he never
14 was -- I don't know what you're trying to -- what you're
15 trying to say. Did he walk up to the car? Yes, he had to
16 walk up to the car.

17 Q. Okay.

18 A. But that's -- this right here is right behind
19 or right next to the driver's door. That's the area that he
20 was in.

21 Q. Okay. When you first saw -- turned around
22 and saw him in aim at the driver, how far away was he from
23 the driver's side door?

24 A. Proximity at that point, maybe two feet, four
25 feet, somewhere in that area. I mean, not very far, two -

1 three feet.

2 Q. Okay. And that was right after the shots
3 were fired, correct?

4 A. Yeah, but the whole thing is, is when the
5 shots were fired, I turned around and where I was looking at
6 -- I'm not trying to say anything about Officer Smith, but
7 he's a shorter guy. I couldn't see directly, you know what
8 I mean, how far away he was directly there. By the time I
9 actually got up to the vehicle, he was two or three feet
10 away.

11 Q. Okay. So you couldn't see the distance he
12 was from the car?

13 A. From where I was at?

14 Q. Yes.

15 A. No.

16 Q. But you could see him?

17 A. Yes.

18 Q. And you could see that he was in aim?

19 A. Yes.

20 Q. Okay. Was he within the length of the -- of
21 the suspect vehicle or was he behind the suspect vehicle?

22 A. He was in length of the suspect vehicle.

23 Q. Okay. So he was at least within the
24 proximity of the back end of the vehicle --

25 A. Correct.

1 Q. -- to the driver?

2 A. Correct.

3 Q. And that was -- assumed you saw him after the
4 gunshots?

5 A. Correct.

6 Q. Did you ever actual see Officer Smith fire
7 his gun?

8 A. No, I did not.

9 Q. Did you ever see anybody else with a gun?

10 A. Except for the driver that was laying slumped
11 -- or laying to his right, he had a firearm.

12 Q. Did you ever see him fire a gun?

13 A. No, I did not.

14 Q. Did you ever see the gun in his hand?

15 A. No.

16 Q. Was the other suspect ever obtained or
17 apprehended?

18 A. Apprehended?

19 Q. Yes.

20 A. I believe so.

21 Q. Did he have a gun on him?

22 A. At the time I do not believe so.

23 Q. Okay. You said you -- when you walked up to
24 the suspect vehicle after the shots were fired, you observed
25 that the driver was hit, correct?

1 A. Correct.

2 Q. Did you see how many wounds he had?

3 A. No, I did not.

4 Q. Okay. Did you see where they were?

5 A. No, I did not.

6 Q. So how did you know he was hit?

7 A. Because there was blood all over him.

8 Q. Okay. Was the driver's side window --

9 driver's side door window shattered or --

10 A. I don't recall.

11 Q. Okay. Did you review anything to prepare for

12 today's deposition?

13 A. Did I review anything?

14 Q. Yes.

15 A. No.

16 Q. And I know I asked if you spoke to Officer

17 Smith or officer Asbury about this incident since it and you

18 said no, but have you spoke to anyone else?

19 A. Yes, my attorneys.

20 Q. And no one other than your attorneys?

21 A. Huh-uh.

22 MS. HUFF: That's it.

23 MR. HARDIN: Let us just have a minute and

24 we'll --

25 MS. HUFF: That's fine.

1 MR. HARDIN: Well, we had 35 questions we
2 were going to ask, but we're going to ask none.

3 (Deposition concluded at 1:53 p.m. and
4 signature NOT waived.)
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COURT REPORTER'S CERTIFICATE

I, Jennifer Olivier, a Freelance Court Reporter and
Notary Public in and for the State of Ohio certify:

That the foregoing deposition of RYAN OLTHAUS, is a
true and accurate transcript of the deposition taken before
me at the time and place therein set forth at which time the
witness was put under oath;

That the testimony of the witness and all objections
made at the time of the deposition were recorded
stenographically by me and thereafter transcribed.

I further certify that I am neither counsel for nor related
to any party to said action, nor in any way interested in
the outcome thereof.

IN WITNESS WHEREOF, I have hereunto set my hand at
Cincinnati, Ohio on this 2nd day of May, 2013.

Jennifer Olivier
Certified Court Reporter
and Notary Public in and
for the State of Ohio

My Commission Expires: 6/26/15